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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the combined initial and second periodic reports of Afghanistan

Addendum

Information provided by Afghanistan in follow-up to the concluding observations*

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1. As a follow up to the request to the Government of Afghanistan to provide an interim report of progress within two years of submission of the initial and second periodic report of the Afghanistan (CEDAW/C/AFG/1-2), the interim report covers the progress under the committee's recommendations under paragraphs 11 and 23.

Introduction

2. The Islamic Republic of Afghanistan is obliged in accordance with Article 7 of the Constitution to observe and protect human rights, and under Article 22, strengthen gender equality and combat discrimination against women. The Afghanistan State as an active member of the United Nations acceded the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2003. Through this mechanism, the Government ensures that international commitments are incorporated into domestic laws, policies and proceedings. The Government is also required to report on the progress achieved in the implementation of international commitments and the challenges faced. Like other treaty bodies reporting requirements, the Government as a State party shall report to the Committee on the Elimination of Discrimination. The combined initial and second periodic reports of Afghanistan were examined by the CEDAW Committee on 10 July 2013. The CEDAW Committee referred 26 recommendations and based on subsection 49, requested the Afghanistan State to provide, within two years, a follow-up report on the steps taken to implement the recommendations contained in paragraphs 11 and 23 of the concluding observations. This follow-up report was prepared by inter-ministerial committee, led by the Ministry of Foreign Affairs (MoFA) as a facilitating ministry. MoFA led the preparation of the report in close cooperation of the Ministry of Justice (MoJ), Ministry of Women Affairs (MoWA), Attorney General's Office (AGO), the Supreme Court and Independent Electoral Commission, and technical support from the UN-Women Afghanistan Country Office.

3. Upon formation of the National Unity Government, the Afghanistan Leadership's commitment to uphold and promote the human rights of women has further strengthened and there is increased conducive environment and opportunities for women's participation at leadership level.

Response to recommendation #11 (A): To set as a priority, for the next 18 months, the consolidation of the legislative achievements by reinforcing the implementation of the Law on the Elimination of Violence against Women and the Electoral Law, in line with the Convention

4. The application of the Law of Elimination of Violence against Women (EVAW Law) has experienced uncertainties to fulfil its national and international commitment to uphold women's rights. In view of the high rate of violence against women and girls, the EVAW Law is an effective legal mechanism, however, cases of violence against women remain a concern in the country, and to date the implementation of the EVAW Law remains partial. Reports of registered cases of violence against women indicate an increase of 38 per cent in 2013 compared with 2012, whereas reliance and issuance of verdicts based on the EVAW Law show a 2 per cent increase over the same period, which demonstrates the low conviction rate, and inadequate use of EVAW Law. The main obstacles to application of the EVAW Law are as follows:

- Low awareness about EVAW Law among the women;
- Limited reliance of the police, prosecutors and judges on the EVAW Law;
- Higher reliance among women and men on informal justice mechanisms and mediation.

5. Other factors such as war, insecurity, corruption, culture of impunity, and a lack of the rule of law also result in a lack of full enforcement of the EVAW Law.

6. The MoWA believes that providing awareness to women and girls on the EVAW Law is an effective mechanism for the empowerment of women and to improve enforcement of the law. Hence, the MoWA conducted awareness programmes for women and girls in 34 provinces in years 2013 and 2014. As a result, (21,614) women and girls enhanced awareness and knowledge on the EVAW law. Another issue adversely impacting the implementation of the law is lack of adequate awareness within justice and judiciary institutions and/or the lack of interest among judges with regard to enforcement of the law challenge full implementation of EVAW Law.

7. The 2013 report about implementation of the law suggests that of (1,669) cases of violence against women recorded by the MoWA in 16 provinces, only 109 (7 per cent) took into account the EVAW Law.

8. The MoWA also worked to address the cultural and religious sensitivity, conducted advisory and awareness-raising programmes with religious scholars and tribal leaders, civil society organizations (CSOs), prosecutors and judges. The above-mentioned training programmes have, to some extent changed the perspective and attitudes with regard to the Law on Elimination of Violence against Women.

9. The mechanism of informal justice is applied and dispensed through *Jirgas* and councils across Afghanistan, which settle a large number of cases ranging from disputes related to land and property, to grievous cases like murder. These systems of informal justice often violate the human rights of women and girls. Findings show that 41 per cent of violence against women cases were settled through mediation mechanisms, most of which should ideally have been settled through EVAW Law.[1] The EVAW Law does not provide clarity with regards to mediation and referral of cases to informal justice.

10. The National Unity Government has clear pledges towards protection and promotion of women and girls' rights. In particular, MoWA as a policy-making body with regard to women and girls, has been addressing challenges faced by women and girls.

11. The National Action Plan for the Women of Afghanistan (NAPWA) is a strategic ten-year plan (2008-2018) which has been developed to promote gender equality based on the national commitments, particularly under the Constitution, National Development Strategy of Afghanistan (ANDS), and in conformity with State commitments under CEDAW. The expansion work of the NAPWA Plan up to 2020 is being undertaken by MoWA. The objective of implementation of the national working plan for women resulted in significant achievements including:

[1] Afghanistan, Ministry of Women's Affairs, *First Report on the Implementation of the Elimination of Violence against Women (EVAW) Law in Afghanistan* (2014).

- For the purpose of seeking justice and counselling for women, high commission against violence and provincial commissions has been established in 34 provinces of Afghanistan, from 22 provinces during the previous report.
- 27 women's protection centres for the women survivors of violence have been established under the supervision of MoWA.
- The office buildings for provincial directorates of women affairs have been built in 32 provinces.
- A total of 200 shops have been built to enhance economic empowerment of women through handicraft business in women's gardens/parks in various cities, benefitting up to 150,000 women annually.
- For the efforts towards poverty elimination and economic empowerment, there were 62 per cent women employees in the Ministry of Labour and Social Affairs, Martyred and Disabled (MoLSAMD), 192 registered economic organizations led by women, 35 per cent women in village developmental councils, and 49 registered agricultural companies led by women.
- In the education and training sector, there was an increase from the previous year to 2014: 6 per cent in literacy learners; 3 per cent number of female teachers in schools; 2 per cent students of universities; 19 per cent students of vocational institutes; and 7 per cent of teacher training institutions students.
- The Attorney General Office has set up a specialized Elimination of Violence against Women prosecution department in 24 provinces. These have had a positive impact and have helped the process of registration and reporting. Further establishment of such units has been proposed in six provinces, and it is planned that such units are established in all provinces.
- The various state/governmental institutions, including the Ministry of Hajj and Religious Affairs (MoHRA), have conducted awareness programmes on the rights of women from the perspective of the Islamic principles. The programmes related to awareness-raising of women, awareness-raising among the religious scholars through mosques have been effective.
- Membership was obtained in the Legislative Committee of the Ministry of Justice (MoJ) by the signing of a memorandum of cooperation: an authorized representative of the MoWA actively participates in this Committee to review laws and avoid contradictions with women and girls' rights.

Achievements, challenges and solutions on full implementation of Electoral Law, in particular with regards to women

12. **Response**: There are a number of challenges for full implementation of the electoral law, including shortage in number of women candidates for provincial councils in some provinces, and employment of male employees in female sites on Election Day.

Shortage of women candidates for provincial councils in some provinces

13. One of the problems faced by the Independent Election Commission (IEC) was the small number of women candidates for provincial councils in some provinces in 2014. In absence of women candidates, the allocated positions/quota for women

remained vacant. When a woman who won the vote to go as a representative to the Upper House resigns or passes away, the IEC is obliged by the rules of Election Law to send one of the unsuccessful women to cover the gap for the remaining period.

14. In the 2014 election, there were not enough women candidates in Urozgran, Paktika, Nooristan, Ghazni, Zabul, Khost, Laghman, Paktya, Badghes and Farah provinces. To address this issue, the IEC — based on Article 25 (paragraph 3) of the Election Law — with the cooperation of the Gender Department of MoWA, encouraged some women to nominate as candidates for the election of provincial councils.

Recruitment of male employees in female sites on Election Day

15. Article 33 of the Election Law highlights the right to be elected and to elect: "The citizens of Afghanistan have rights to elect and to be elected". To realize this article, the IEC aims to provide all of the necessary conditions/facilities for the people of Afghanistan eligible to participate in the election. One of those conditions is separate sites for women at voting sites throughout the country.

16. In this specific case, Article 2 (paragraph 5) of the regulation of voting at women's sites in voting centres states: "In the framework of every voting centre, a component/site for women can be established". However, in (1,590) sites in 28 provinces during 2014 elections, despite the efforts of the IEC, sufficient women employees were not hired due to the lack of women applicants, therefore male employees were hired.

17. Also, the other challenges like insecurity, lack of credible data through census, the lack of voters' addresses, budgetary problems, lack of credible identity cards, cultural issues and other factors further hinder the effective implementation of the Election Law.

Recommendation #11 (B): To ensure that the Wolesi Jirga and Meshrano Jirga joint commission working on amendments to the Electoral Law maintains the 25 per cent quota for women in the National Assembly and in the provincial councils as currently established in the Electoral Law

18. **Response**: Article 83 (paragraph 6) of the Constitution specifies a quota of women in Parliament. Article 30 (paragraph 2) of the Election Law concerns the quota of women in provincial councils: "At least, 20 per cent of chairs in provincial councils are allocated for women candidates." Article 25 (paragraph 1) of the Election Law also concerns the quota of women: "In paragraph 2 of Article 30 of the amendment of Election Law which is promulgated based on Presidential decree #84 dated 16/Sept/2015 of the Islamic Republic of Afghanistan that is envisaged at least 25 per cent quota for women in provincial councils."

Recommendation #11 (C): To consolidate the legislative framework relating to women's rights by adopting without delay the draft family code and by ensuring that any revisions of the Penal Code and the Code of Criminal Procedures repeal, and do not include, discriminatory provisions against women

19. **Response**: The draft Family Law is under scrutiny at the Legislation Institute of MoJ. A learning exchange is scheduled to Malaysia to further processing of the draft.

Recommendation #11 (D): To reinforce its efforts to raise the awareness of parliamentarians and members of the provincial councils regarding women's rights with a view to upholding the gains already achieved

20. **Response**: The MoWA, as a policy-making body, in cooperation with other influential institutions works hard and attracts the support of those organizations concerned with protection of women rights achievements, and endorsement of pro-women policies and laws. The leadership of MoWA has been in constant contact with the women/gender commissions of both houses of the Parliament. The MoWA organized a meeting with approximately 120 members of parliament (MPs) from both the Upper House and Lower House, and obtained their support with regard to approval of the gender budget and formation of a gender sub-committee in the Cabinet of Ministers. A coordination meeting was also organized with members of provincial councils, and advisors to the President, including governmental and non-governmental organizations (NGOs), with the aim to ensure further cooperation and communication on women's issues. In the sector of leadership and political participation of women, activities were conducted resulting in an increase in the number of women in consultative council (*Jirgas*) election processes, and in candidates for parliamentary and provincial council elections in 2014.

Recommendation #11 (E): To intensify its collaboration with women's organizations to eliminate violence against women and to improve women's access to education, health, justice and political participation

21. **Response**: The MoWA expanded the strengthening of technical cooperation with national and international organizations to uphold the rights of women at policy levels. The MoWA works on laws and policies for prevention of violence against women and collaborates with parliament and MoJ in this regard. The MoWA has signed Memorandum of Cooperation with 80 national and international organizations for developing the capacity of women in social, economic, cultural and political areas, based on its strategic objectives. The programme of development of gender equality is a priority of the Government of the United State of America (USA) and the Government of Afghanistan. Through PROMOTE, a joint commitment between Government of Afghanistan and the Government of USA, the programme aims to empower 75,000 women between the ages of 18-30. The women will be enrolled as a new generation of leaders and their capacities developed to participate as leaders in the political, economic, business and civil society fields. The PROMOTE project aims to empower women to obtain leadership positions alongside male colleagues and to gain the necessary experience, skills and networking skills for their future success. The project will be developed during 2015-2024 in four areas: development of women leadership in government, women in economy, coalitions and groups as advocates for women rights.

22. In addition, the implementation of a NAPWA has led to major achievements for women in terms of their access and participation in the health and education sectors, and other areas as described in the table below (during the period 2011-2014):

Achievements	*2011 (per cent)*	*2014 (per cent)*	*Improvement over a span of three years (per cent increase)*
Female employees in governmental/state institutions	21	27	6
Participation of women at decision making level	9	10	1
In security sector	1	1	0
In health sector	24	28	4
Justice and judicial sector	9	14	5
Students in schools	39	41	2
Teachers in schools	30	31	1
Learners of literacy over 10 years	22	32	10
Students of governmental universities	19	20	1
Students of private universities	15	21	6
Professors/teachers in public universities	15	14	-1 (decrease)
Professors/teachers in private universities	7	8	1
Presence of women in private sector	16	22	6

Recommendation #23: (A) To establish measures, as a priority, to effectively combat impunity and comply with its due diligence obligation to prevent, investigate, prosecute and punish violence perpetrated against women by State and non-State actors

23. **Response**: The MoI is obliged — based on Article 13 of the EVAW Law — to adopt preventive and supportive measures to prevent violence against women. The MoI, in 34 provincial chief of police officers, through the human rights units of the General Directorate of Human Rights, and also in 17 districts of Kabul through the family response units (FRUs), follows violence against women cases and refers them to the Prosecutor Office for adjudication.

24. The follow up and figures for cases of violence against women during 2013-2014 are as follows:

A. Cases of violence against women in 2013

25. There were 721 cases of violence against women registered in 2013, comprising of 207 cases of murder, 48 cases of elopement from home, 15 dead bodies found, 78 suicides, 154 cases of beating, 41 cases of injury, 7 cases of disappearance, 72 cases of domestic violence, 20 cases of adultery, 5 cases of death threats, 5 cases of poisoning, 16 rapes, 12 kidnapping, 6 forced marriage, 4 self-immolation, 6 divorce, and 3 cases of failure to pay alimony (*Nafaqa*). Total 395

cases are under inspection by the police, 159 are under detection, 133 cases were referred to the prosecutor, and 33 cases were withdrawn.

B. Cases of violence against women in 2014

26. There were 717 cases of violence against women registered in 2014, comprising, 201 murder, 5 kidnapping, 2 rapes, 4 cases of adultery, 8 harassment, 5 forced marriages, 23 rape cases, 1 case of eating opium, 20 cases of threats to kill, 1 case of telephone threat by police, 3 cases of acid attack, 1 case of suicide, 2 cases of family dispute, 30 cases of suicide by hanging, 38 cases of domestic violence, 10 cases of self-immolation, 47 suicides, 23 cases of dead bodies being found, 2 cases of kidnapping, 3 cases of failure to pay the alimony (*Nafaqa*), 21 cases of adultery, 201 murders, 2 cases of attempt to rape, 3 cases of attempt of adultery, 2 cases of disappearance, 183 cases of beating, 55 cases of injury, 3 cases of eating toxic substances, 2 cases of trafficking, 1 case of cutting nose and ears, and 1 case of cutting of the sexual organs of the wife by husband. Of those, 180 cases are under the inspection of police, 208 cases under detection of police, and 180 cases were referred for prosecution. Two cases were settled by elders, 3 cases were referred to the MoWA and 4 cases were referred to the legal Department of Ministry of Justice (MoJ).

C. Cases of violence against women in 2015

27. There have been 301 cases of violence against women to date in 2015 (1 January to 3 June), comprising, 8 cases of kidnapping, 7 cases of rape, 2 cases of humiliation and degradation, 13 cases of death threats, 1 acid attack, 12 cases of hanging, 3 cases of family violence, 2 cases of self-immolation, 32 suicide, 4 cases of dead bodies being found, 2 cases of disappearance, 78 cases of beating, 28 cases of injury, 5 forced marriages, 1 case of elopement, 5 cases of adultery, 79 cases of murder, 1 attempt to murder, 1 case of harassment, 1 case accusing of rape, 1 case of selling, 2 cases of poisoning, 2 cases of 'selling and buying women', and 1 death threat. Of these, 172 are under the inspection, 76 cases are under detection of police, and 53 cases were referred for prosecution.

Measures and steps for prosecution of perpetrators of violence against women

28. The Attorney General's Department of elimination of Violence against Women has taken the following actions:

29. **Response**: Commission on combating Violence against Women to prosecute perpetrators of violence against women was established in 2010 as an attached body to the Attorney General Office (AGO). In 2011, under AGO, a special prosecutor office on combating violence against Women was established, which has been operational to prosecute the cases. The prosecutors work in (24) provinces.

30. Adjudication of cases of violence against women during 2013 to 2014 in the courts of Afghanistan as follows:

- In 2013, there were 199 cases adjudicated in the primary court, and 99 cases in appellate courts of Kabul province.
- In 2014, there were 182 cases adjudicated in primary courts, and 69 cases in appellate courts of Kabul.

- Based on figures for 2013 to mid-2015 (1st quarter), a total of 927 cases of violence against women were adjudicated and handled in courts of the country:
  - 2013: 363 cases
  - 2014: 450 cases
  - 2015 (1st quarter): 112 cases

Recommendation #23 (B): To ensure the proper implementation of the Law on the Elimination of Violence against Women by, for example, providing systematic training on that law for all police officers working in family response units, issuing guidelines to the courts on the application of the Law on the Elimination of Violence against Women, including its mandatory application in conjunction with other relevant national legislation; and developing a strategy to ensure the recruitment and retention of female police officers

31. **Response**: The Ministry of Interior Affairs (MoI), based on its duty and legal obligation to hire women police officers, formulated and disseminated a strategy in 2013. In addition, an action plan was prepared, which is followed by all departments of the national police.

Recommendation #23 (B): Specific guidelines for implementation of the EVAW Law

32. **Response**: The rules of the EVAW Law are defined and transparent to avoid any ambiguity with regard to its interpretation. Therefore, there has been no need for the preparation of guidelines in the courts. But instead, in-service training courses were conducted for judges to develop their capacities.

Recommendation #23 (C): To ensure that shelters for women victims of violence are properly resourced and that the quality of services offered is regularly monitored; increase the number of shelters so as to strengthen support services for victims, such as counselling and rehabilitation services, both medical and psychological; and develop a strategy to ensure their financial support in the framework of the Tokyo Mutual Accountability Framework

33. **Response**: In 2013 and 2014, the MoWA carried out activities with regard to improvement in the quality and quantity of support centres at the national level. A regulation is being prepared for the regulation of support centres. Total 27 established support centres are regularly supervised by MoWA. Total 4,200 women benefitted from supporting centres during 2013-14. In addition, standard guidelines and procedures have been developed for efficient functioning of the centres. For instance, separate committees for coordination, psychological health, security, literacy, and monthly supervision and control on peace houses have been established. Meanwhile, a trust fund has been established to support the women in dire need. The safe houses are beyond the structure of the state/government and are funded by donor agencies. While the issue of sustainability and continuation of the support centres/safe houses is a central concern, there has not been any step with regard to the development of a strategy to ensure financial support for those centres.

Recommendation #23 (D): To adopt a comprehensive policy and strategy to eliminate all harmful practices against women and girls, which includes raising the awareness of religious and community leaders with the aim of preventing misinterpretations of sharia law and Islamic principles, in addition to awareness-raising efforts targeting the general public and the media, in collaboration with civil society and women's organizations

34. **Response**: MoWA is working on developing a strategy on the elimination of violence against women and to provide an enabling environment for appropriate enforcement of the law. The strategy will be shortly finalized. Meanwhile a regulation on the elimination of violence against women is underway and will shortly be finalized.

35. In conformity with the NAPWA, a specific working plan with religious scholars and tribal leaders for preventing violence against women is enacted. Audio, pictorial and printed messages on the rights of women and girls are regularly prepared and published with the cooperation from MoHRA. Scientific and research conferences on the elimination of violence against women from the point of view of Islam and law, national and international seminars on the rights of women from the point of view of the Koran, and workshops on the rights of women in domestic and international law have been conducted. Moreover, mullahs have delivered sermons on the rights of women with the cooperation from MoHRA and influential local people.

36. The MoWA also activated a 24-hour telephone line (6464) to provide free legal aid counselling to women and girls. A MoU was signed with the Organization for Uplifting of Educational Capacity of Afghanistan to operate the line. During January 2013 to January 2015, a total of (33,428) person,(27,392) female and (6,036) male used the telephone line and obtained advice about legal, health, social, psychological, family problems and addiction issues.

Recommendation #23 (E): To ensure the proper registration of cases of violence and the standardized collection of data on all forms of violence against women

37. **Response**: A lack of inclusive mechanism for recording and analysis of data and figures has been one of the challenges faced by organizations working on upholding women's rights. Therefore, the MoWA has created a standard database in coordination with the MoI, the AGO to register incidents of violence against women.